

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

Case No. 18-CR-29-WMC

MARK E. BARTZ,

Madison, Wisconsin

October 4, 2018

Defendant.

2:15 p.m.

STENOGRAPHIC TRANSCRIPT OF SENTENCING
HELD BEFORE U.S. DISTRICT JUDGE WILLIAM M. CONLEY

APPEARANCES:

For the Plaintiff:

Office of the United States Attorney
BY: ELIZABETH ALTMAN
Assistant United States Attorney
222 West Washington Avenue, Suite 700
Madison, Wisconsin 53703

For the Defendant:

Federal Defender Services of Wisconsin
BY: JOSEPH A. BUGNI
22 East Mifflin Street, Suite 1000
Madison, Wisconsin 53703

Also appearing: MARK E. BARTZ, Defendant
RICHARD WILLIAMS, U.S. Probation Officer

Jennifer L. Dobbratz, RMR, CRR, CRC
U.S. District Court Federal Reporter
United States District Court
120 North Henry Street, Rm. 410
Madison, Wisconsin 53703
(608) 261-5709

1 (Proceedings called to order at 2:15 p.m.)

2 THE CLERK: Case No. 18-CR-29, the *United States of*
3 *America v. Mark E. Bartz*, called for sentencing.

4 May we have the appearances, please.

5 MS. ALTMAN: Good afternoon, Your Honor. The United
6 States appears by Elizabeth Altman.

7 MR. BUGNI: Good afternoon, Your Honor. Joe Bugni
8 appearing on behalf of Mark Bartz.

9 THE COURT: Good afternoon, all.

10 We are here for the sentencing of Mark Bartz, and my first
11 obligation, Mr. Bartz, is to confirm that you've had an
12 opportunity to read and discuss the presentence report and the
13 addendum to that report with your counsel.

14 THE DEFENDANT: Yes, I have.

15 THE COURT: Then I'll turn to you, Ms. Altman, to
16 confirm that the government is moving for an additional
17 one-level reduction for acceptance of responsibility.

18 MS. ALTMAN: Yes, Your Honor.

19 THE COURT: And also to ask whether or not there are
20 any victims who wish to speak.

21 MS. ALTMAN: Yes, Your Honor.

22 THE COURT: Then I'll -- we'll address them shortly.
23 Can you also tell me the status of restitution at this point?
24 Has there been any progress made there?

25 MS. ALTMAN: What I can tell you is that the older

1 child has begun exhibiting some behavior problems. The mother
2 has consulted with a pediatrician. If they continue in the near
3 future, I believe that there will be an assessment done, and we
4 would like restitution left open so that if there's going to be
5 treatment needed in the near future, that that can be addressed.
6 I know we have 90 days to -- I mean, we can't wait forever to do
7 it obviously, but there has been initial discussions about some
8 behavioral problems.

9 THE COURT: And I'm not -- I will give you what time I
10 can under the statute. Given the severity of the crime and the
11 amount of time this defendant is likely to do, I'm not sure it
12 isn't more than a pyrrhic exercise, but certainly the victims
13 are entitled to make a showing if they wish to, so we'll deal
14 with that --

15 MS. ALTMAN: And they do understand, Your Honor, that
16 it may be symbolic only.

17 THE COURT: Understood. All right. With those
18 preliminaries then, I will accept the plea agreement finding
19 that the offenses of conviction adequately reflect the
20 defendant's criminal conduct. The plea agreement does not
21 undermine the statutory purposes of sentencing. In determining
22 the defendant's sentence, I will take into consideration the
23 advisory sentencing guidelines and be governed by the statutory
24 purposes of sentencing that are set forth at Section 3553(a) of
25 Title 18.

1 The parties provided clarifications that were incorporated
2 into the revised presentence report, but they do not affect the
3 guidelines. Accordingly, I find the probation office calculated
4 the advisory guidelines correctly using the current guidelines
5 manual and taking into account all relevant conduct under
6 Section 1B1.3.

7 Here the relevant crimes of conviction are subject to a
8 multiple-count analysis under Sections 3D1.2 and 1.4 because
9 they involve separate victims and separate harms.

10 Specifically, as to Count 1, the guideline for production
11 of child pornography in violation of Section 2251(a) of Title 18
12 is found at Section 2G2.1. The base offense level is 32 under
13 2.1(a).

14 Because at least one of the images depicts a minor who had
15 not yet attained the age of 12, an increase of four levels is
16 warranted under subsection 2.1(b)(1)(A).

17 Moreover, because the defendant knowingly distributed the
18 images of that minor, another two-level increase is warranted
19 under 1(b)(3).

20 Next, the images involved the abuse of an infant or
21 toddler, resulting in yet another four levels under 1(b)(4).

22 Finally, because the minor was left in the care of the
23 defendant, a two-level offense increase is warranted under
24 1(b)(5).

25 Since no other Chapter Two adjustments apply, the

1 defendant's adjusted offense level for Count 1, what we'll call
2 group A, is 44.

3 As to Count 2 and group B, the guideline for the
4 defendant's production of pornography using a different child
5 results in a second violation under Section 2251(a) and again 32
6 levels as a base offense under 2G2.1(a).

7 Because under Count 2 at least one of the images depicts a
8 minor who had not yet attained the age of 12, he again receives
9 a four-level increase.

10 Moreover, at least one of the images shows the defendant
11 inserting his penis into the mouth of a minor, resulting in a
12 two-level increase under 1(b)(2)(A).

13 Two offenses -- two offense levels are then added under
14 1(b)(3) and four more offense levels under 1(b)(4) because the
15 defendant knowingly distributed the images of the minor and the
16 images depict the sexual abuse of an infant, respectively.

17 Finally, because the minor was also left in the care of the
18 defendant, another two-level increase is warranted under
19 1(b)(5).

20 Since no other Chapter Two adjustments apply, the
21 defendant's adjusted offense level for group B is 46.

22 According to the multicount analysis under Section 3D1.4,
23 two levels are added to the highest adjusted group offense
24 level, in this case group B, resulting in an adjusted offense
25 level of 48.

1 Under Section 4B1.5(b) (1), yet another five-level increase
2 is called for because the offense of conviction is a covered sex
3 crime, and the defendant engaged in a pattern of activity that
4 involved sexual conduct, including -- I should say involved
5 repeated prohibited acts of sexual abuse against one -- against
6 one or more -- against more than one minor.

7 The defendant does qualify for the three-level downward
8 adjustment under Section 3E1 because he demonstrated acceptance
9 of responsibility by pleading guilty and by virtue of the
10 government's motion and his cooperation with the authorities
11 once caught.

12 Ordinarily this would result in a total offense level of
13 50, one of the highest offense levels that can be brought before
14 a court, certainly among the highest this court has ever seen.
15 However, under Chapter 5, Part A, comment note 2 of the
16 guidelines, when the offense level exceeds 43, then it must be
17 treated as a level 43.

18 With a total offense level of 43 and a criminal history
19 category of I, therefore, the defendant has an advisory
20 guideline imprisonment range of life in prison, although in this
21 case by virtue of the statutory cap of 60 years on the two
22 counts if imposed consecutively, the guideline range is
23 essentially 60 years.

24 The gravity of the defendant's conduct is reflected in the
25 guidelines, and notwithstanding defense counsel's passionate

1 advocacy in his memorandum, it is very hard to find mitigating
2 factors for this defendant given the gravity and depravity of
3 his conduct. In particular, it's really hard to give any --
4 treat any mitigation for what's described as true remorse by the
5 defendant because he's engaged in this activity, and it's only
6 gotten worse. It may be now that he finally appreciates at
7 least the gravity of his conduct, but it's a little hard for me
8 to measure what part of that remorse is for having been caught
9 and what part is really understanding the ravages that he's left
10 in his wake.

11 I do think that defense counsel is right to point out that
12 we don't know about this particular defendant's amenability to
13 treatment and reforming, and he certainly will be -- although
14 this wasn't discussed by either side -- vulnerable as a victim
15 inside but likely placed somewhere where he can get treatment
16 and, therefore, less likely to be as vulnerable as he would be
17 in an ordinary prison population. And certainly the defendant's
18 upbringing, although far better than most that come before the
19 Court, was marked by substantial surgeries and the psychological
20 abuse associated with a cleft palate and some 29 surgeries that
21 he probably did receive from his peers, but, again, it's hard to
22 treat that as particularly mitigating given the severity of the
23 crimes that we're talking about.

24 Defense counsel suggests that the Court should take in the
25 fact that Congress is throwing the book at everyone involved in

1 child pornography and keeps raising the sentences. That's
2 certainly true, but for a serial child abuser, I'm not sure even
3 the most dispassionate would not say that it's among the most
4 abhorrent crimes that one can commit. You're not talking about
5 viewing child pornography, however pernicious that can be in
6 creating a market. You're talking about abusing children in the
7 most vile ways imaginable, and I know defense counsel wasn't
8 suggesting there shouldn't be a severe punishment, but I'm not
9 sure, again, that you could make a case like first-degree murder
10 that this is not as abhorrent conduct as we have in society.

11 So I'm having a great deal of difficulty finding reasons to
12 mitigate except perhaps the possibility of redemption in prison
13 and particularly the possibility that some treatment might
14 assist. At the age of 48, you know, that window is certainly
15 closing, but that's as much as I can find. I haven't decided on
16 an exact sentence. I know the government writes passionately
17 that -- and I think most effectively that similarly situated
18 defendants would face extremely harsh sentences -- if not life,
19 then very long sentences -- and is calling for 60 years, 720
20 months. I can understand the argument.

21 In any event, I'll hear first from the government.

22 MS. ALTMAN: Yes, Your Honor. Would you like to hear
23 from me first or from the victim's mother first?

24 THE COURT: It's entirely up to you how you want to
25 proceed.

1 MS. ALTMAN: I will make my argument first, and then
2 depending on -- one of us will read a letter that she wrote. I
3 will be brief. I did cover most of my arguments in my
4 sentencing memo. I would just like to point out a couple
5 things.

6 The first is that even if this case involved just one
7 victim, if he were only charged with abusing -- you know, Count
8 1 in the indictment and nothing else, he would be subject to 15
9 years.

10 THE COURT: One five.

11 MS. ALTMAN: One five, yes. A sentence of 22 years
12 doesn't come close to taking into account the defendant's long
13 history of assaulting children. The bottom line, and I think
14 it's spelled out pretty clearly in our sentencing memorandum and
15 you referred to it already, we believe that the defendant should
16 never ever get out of prison. He should never have the
17 opportunity to victimize another person, another child. 22
18 years -- the defendant is asking for that -- that won't ensure
19 that he never gets out of prison, and a sentence of 60 years
20 would.

21 And the last thing I would like to say and probably the
22 most important thing that I would like to say, it's been alluded
23 to in a couple places, but this case came to law enforcement's
24 attention because the defendant was posting images of the
25 assaults online. That's how NCMEC found out about it. It

1 wasn't the case that a sexual assault got reported and the
2 police went to his house and found pictures that they were --
3 that hadn't been shared, which happens occasionally. They were
4 discovered by NCMEC because he shared them with other people.

5 These pictures are out there forever. They don't go away.
6 People have them. From the statement that the children's mother
7 wrote, they're going to be dealing with the ramifications of the
8 defendant's crime forever. The family has to face a lifetime of
9 knowing what happened to their children, and she's going to
10 explain to you, or I will by reading her statement, how it isn't
11 just the children that are affected but the parents as well.

12 The victims in this case, fortunately, are hopefully young
13 enough that they probably won't remember the abuse. They're
14 very young, although, as Ms. Bilski will tell you, it appears
15 the older child may be suffering some of the effects, some of
16 the acting out which I previously mentioned. In any event,
17 whether they remember it or not, by filming himself assaulting
18 these children and posting those images online, the defendant
19 himself has assured that these children face a lifetime of
20 knowing every single day that there's a possibility that someone
21 is looking at their images and getting pleasure from images of
22 them being sexually assaulted, their sexual abuse at the hands
23 of this defendant, every day for the rest of their lives.

24 Just as the parents and the children face a lifetime of
25 having to deal with the defendant's actions, the government

1 believes the defendant should also face a lifetime of that and
2 not just by supervised release but by spending the rest of his
3 life in prison.

4 The children's mother has written a report. She has asked
5 me to read it.

6 THE COURT: For my benefit, if you would just raise
7 your hand so I at least know where you're sitting. Thank you
8 very much. I appreciate it.

9 MS. ALTMAN: A person's childhood is supposed to be a
10 time of innocence, love, laughter, and freedom. Childhood is
11 not a time where one should have to endure dirty and shameful
12 acts forced upon them by an adult. Since January 25th, my whole
13 family has been reeling and trying to find any means necessary
14 to deal with this horrible, scary, and disgusting truth. The
15 children are going on with their day-to-day lives, but we, the
16 adults, are having to find new ways to cope and find trust in
17 those around us.

18 I got the call on the 25th while I was at work. That is no
19 call that any parent should ever have to have. I was bawling
20 hysterically at work, which was embarrassing enough, and then I
21 had to ask to leave work that instant, which, as a nurse, that
22 is no easy task. That day was a full, busy day on the floor, so
23 to leave my co-workers short one nurse was especially painful,
24 but family needs come first.

25 I arrived at my parents' house where I saw a lineup of

1 cars. When I got inside, I knew whatever they had to tell me
2 was bad, but little did I know how bad it truly was. The day
3 was a blur for my husband and me, and we were questioned --
4 after we were questioned, we were asked if we wanted to take the
5 kids to the clinic for examination. We agreed, and off we went.

6 For two little kids, routine is everything, and an
7 unexpected visit to the doctor is never in that routine. So
8 when we arrived that afternoon, the kids were poked and prodded
9 at. The tears and confusion that came from their faces broke my
10 heart even more. The kids were off their schedule, missing
11 lunch, and went through things that kids should never have to go
12 through.

13 Since that day, I have had to quit my previous job because
14 the thought of leaving my kids with anyone, even my husband,
15 fills me with dread and unsurmountable anxiety. My oldest child
16 is having battles of her own since that day as well. She has
17 developed new anxieties to things like loud noises, dogs, and
18 being alone. She will scream and cry and shake at the thought
19 of any of these. Imagine a 3-year-old having a panic attack at
20 the thought of a parade or going to the park or sleeping in her
21 own bed in her room by herself at night. I have been trying to
22 help her through this anxiety but at this moment may need to
23 seek outside help from a therapist. I cannot be certain if this
24 anxiety is due to her age or what she has gone through because
25 we do not know what she has seen and endured at the hands of a

1 careless, vile, corrupt, and evil person all of those months.

2 The aftermath of this investigation was especially brutal
3 for my family. We have had to tell all the close and extended
4 family members what happened because this is not something one
5 can sweep under the rug. All the local newspapers had posted
6 articles on this, and it was on Facebook. One evening I was at
7 work doing my hourly rounding on a patient when this news story
8 broke. I was in the patient's room, and I immediately fell to
9 the floor and sobbed uncontrollably. My co-workers heard what
10 was going on and immediately came to my aid. They got me up and
11 to the locker room. I gathered my composure and asked the
12 charge nurse if there was any way I could leave. The next day
13 my manager called and wanted to discuss what happened. I told
14 her the truth, but that truth was hard to tell. This story was
15 not one I would ever think that I would have to tell. It was
16 embarrassing to discuss that with her, although she understood
17 and told me to take time off if I needed and that there would be
18 no questions asked. The support was great, but at the end of
19 the day, I grew resentment towards my job because they kept me
20 away from my kids, which led me to quit a few months later.

21 Writing this statement and coming today is perhaps one of
22 the hardest things I have ever had to face. I didn't think that
23 I had the courage or the strength in me to come today. I wanted
24 everyone to see how this man's actions have affected me and my
25 family. I also wanted everyone to hear my words and to know how

1 I feel. I also want to let everyone know that these two
2 beautiful children deserve to have a voice, and they deserve to
3 have a life free from this, though I am assured that these
4 images will come up many times in the future and forever haunt
5 them and all of us. It will serve to constantly haunt us and
6 remind us of this crime. We can erase this man from our lives,
7 but, unfortunately, those pictures or videos may never be fully
8 taken down. These images will be impacting my children's lives
9 for possibly their whole adult life. As a mom, that is a
10 thought that is impossible to bear.

11 After today one of my biggest fears will be laid to rest.
12 I will know that for some time hopefully this man will not be
13 able to harm my children or the lives of other children ever
14 again. I know that someday I will have to tell them what
15 happened to them, but I am praying that it won't have to happen
16 for quite some time. To have him out in society would mean I
17 would be living in constant fear and worry. Again, my children
18 are my life. My job as a mama is to guide, protect, educate,
19 and be a voice for them. I am here today to be their voice. No
20 one deserves to endure such actions by a person they trust, no
21 one. No child who is vulnerable, innocent, and loving deserves
22 this inflicted on them. No one should be able to get away with
23 this. These actions are deplorable and from someone who fooled
24 everyone. He is a con artist through and through. He played
25 off being a Christian with morals when underneath it all hid a

1 corrupt, black soul with twisted, dark desires. This is the
2 type of person I tried to protect my kids from, but it is hard
3 to protect your kids from a wolf in sheep's clothing.

4 Big thanks to the FBI and the others for giving my kids a
5 voice and raising those red flags. I appreciate it from the
6 bottom of my heart. I cannot imagine what more my kids would be
7 enduring if not for you all. Thank you also to the judge
8 presiding over this case. Thank you for bringing justice to my
9 family and especially to Aubrey and Colton.

10 THE COURT: Ms. Altman, before I address the letter
11 itself, I assume that your victim coordinator is working with
12 the families here?

13 MS. ALTMAN: We do -- yes. My office is. Our
14 victim/witness coordinator is out, but we've got people stepped
15 in, yes.

16 THE COURT: And I'm more concerned about making sure
17 they're directed to the resources that are available for
18 counseling.

19 MS. ALTMAN: We're working on that, yes.

20 THE COURT: There was a mention, and I'm not going to
21 single you out, although I think part of the biggest problem
22 with this crime is that it's treated as something that you
23 should be ashamed of even though you're the victim. There is
24 nothing, nothing, nothing to be ashamed of, and the sooner we
25 all take responsibility for this living nightmare I think you

1 said -- that's what it is; it should be for all of us -- and we
2 confront it openly -- and this is not your burden. As the
3 victim, the last thing you should be burdened with is having to
4 become the spokesperson to shine a light on this, but you may
5 find over time that if you search out others who have been
6 victimized and you talk through -- and there are good groups
7 now, and you can find them easily. One of the benefits of the
8 internet, along with the evils that are demonstrated in this
9 case, is that you can search out information.

10 More than that, I was particularly touched by your
11 statement that your children may need to undergo therapy, and I
12 know you've obviously done your own research on this and thought
13 about it. Hopefully you're all in therapy, and you may be being
14 told that they're too young now to be involved in any way. I'm
15 not sure all child therapists would agree with that, but most
16 important right now is you pursuing therapy so that you can find
17 positive ways for them.

18 Beyond that, you'll have to decide your comfort level in
19 stepping up. It's not your burden, as I say, and the truth is,
20 as you say, very hard to tell, but it needs to be told, and
21 hopefully there's a way that society can make sure that victims,
22 particularly young, vulnerable, innocent children, are not
23 revictimized, and I can only urge you to take full advantage of
24 the victim coordinator who has resources that they can point you
25 to and pursue them like a squeaky wheel in the health care

1 system to make sure that all resources are available.

2 And don't underestimate the value over time. The first few
3 times it may be awfully painful, and the natural inclination,
4 understandable, is to -- I think you said to try to put it
5 behind you, and yet it keeps comes up. It's one of those things
6 that you can't put behind you fully, but you can start to
7 address it in productive ways over time after you get over the
8 horrible pain that will re-emerge each time you face it. I
9 truly hope for you and your family and for the other victims'
10 family that that's something you can find over time.

11 I'll then hear from -- anything more that the defense
12 wishes to say.

13 MR. BUGNI: Thank you, Your Honor. It's clear the
14 Court has read the defense's remarks on this, and I think
15 there's three salient points to make.

16 As far as the ability to have true remorse, I think the
17 Court will hear Mr. Bartz's words and can judge for itself --

18 THE COURT: And so we're clear, I'm not discounting the
19 possibility. I'm saying that in terms of finding it mitigating
20 at this point, it's very hard to weigh it because the only
21 reason he's here is because he was caught, and maybe over time
22 through actions he can demonstrate it, but in terms of it being
23 a mitigating factor -- I hope, I truly hope, that he feels
24 remorse, tremendous remorse. This is one place where shame has
25 value.

1 MR. BUGNI: Agreed.

2 THE COURT: And he can come out the other side of this
3 with therapy as a better person, but in terms of mitigation for
4 sentencing, I just don't know how to weigh that.

5 MR. BUGNI: I think where it's weighed is that there
6 are some who are apologists for this behavior -- we've seen
7 that -- and then there are those who "Thank God I've been
8 caught. Thank God that, like, I'm exposed and that I'm able to
9 have that," and I'm not saying that in each case this court has
10 to give a minus seven or a plus four, but there is that spectrum
11 that we've all dealt with in this courtroom that -- those who
12 truly say "This is the lowest I have ever done, this is
13 shameful, and I wish never to do it again, and it's terrible,"
14 and then those who are true apologists for, you know, their
15 sexual attraction to children. There's a difference there.

16 THE COURT: It's very hard to discern which is which in
17 an individual person, but I agree that's part of my
18 responsibility.

19 MR. BUGNI: And I think that then the Court also has to
20 weigh is he amenable to treatment? Is this somebody who at 70,
21 are we going to have somebody who the threat is still so great?
22 And if Mr. Bartz was 25 or 35, I would say he probably has to
23 get out at 70, and that realizes that it's not a life sentence,
24 that there are very few life sentences that society imposes.
25 Instead, it allows for the Court to have that discretion. Even

1 murder one in Wisconsin allows for the Court to say after 20
2 years you can be released to society.

3 THE COURT: First-degree murder it seldom happens that
4 way, Counsel, but I take your point. Anything else you want
5 to --

6 MR. BUGNI: The final point, Your Honor, is though this
7 is a most abhorrent crime, and I agree with that -- there is no
8 question how horrifying this is both as a father and just as a
9 human being -- but it is one that when we say what is just
10 punishment, it's one that we don't normally say you have to die
11 in prison for. And the abhorrence of it is something that you
12 have to weigh, but it is balanced against everything else that
13 the Court also has to weigh looking at this offender and looking
14 at the needs of society, and if the Court can have a takeaway
15 that, you know, that Mr. Bartz at 70 or 75 poses a reduced risk,
16 a reasonable risk, especially under all the assurances that we
17 have with probation and just how old and tired he will be, the
18 Court can settle upon that number and say this is adequately
19 punished. Adequate punishment at 27 years is not a small thing.
20 A 27-year sentence is not a small thing for a person.

21 Your Honor, I believe that that's something that this court
22 can weigh and balance, and when it thinks sufficient but not
23 greater than necessary, anywhere within that spectrum is
24 something allowing Mr. Bartz to have the opportunity to again
25 one day be released.

1 So with that, Your Honor, I'd ask -- Mr. Bartz has some
2 prepared remarks that he would like to say.

3 THE COURT: And I would be very interested in anything
4 you have to say, Mr. Bartz.

5 THE DEFENDANT: Your Honor, I've tried to write this
6 letter a million times, tried to find the right -- find the
7 words to say I'm sorry for what I did. I know there's no way to
8 say it, but I am sorry for what I did, and I hope and pray
9 someday -- someday my family and people can forgive me for what
10 I did. I pray the two little ones would never know what I did
11 or who I am.

12 Even though I have apologized to the family members, I'd
13 just like to say it again. I'm sorry. I was given a great gift
14 to watch over the kids, and I betrayed that trust to watch over
15 them. I'm sorry I gave in to temptation. I'm sorry. A year
16 ago I asked God to stop me. It was my mom's birthday a year ago
17 and -- and he finally has answered that prayer. I'm sorry --
18 I'm sorry. I just thank God he answered my prayers and he
19 stopped me and there's no more, Your Honor.

20 THE COURT: Mr. Bartz, did you want to add anything
21 else?

22 Maybe that's a reasonable place to start. It's hard to
23 find any saving grace in this, but perhaps the fact that you've
24 been stopped is one. Your willingness to cooperate with therapy
25 and help therapists better understand who you are and what

1 motivated you so we can do better would be a really great place
2 for this to go. That will require you to continue to be
3 painfully honest, something which was not your practice until
4 now.

5 It's more than a betrayal of trust. I think the
6 description of being a wolf in sheep's clothing is really pretty
7 close to dead on. You continually created opportunities,
8 knowing your predispositions, to continue to babysit children,
9 to take other steps to be around children -- there's really no
10 redeeming aspect to that; that's where the evil really lives --
11 and not to search out any kind of therapy until you were caught.
12 If you really want to show that you're sorry, you'll spend your
13 time in prison facing up to your conduct, participating in group
14 therapy, helping others recognize the same things that drove you
15 down this road, and helping therapists figure out how we can
16 stop it going forward. That would be a demonstration of real
17 remorse. I hope that's what you pursue.

18 I am prepared to render sentence. The defendant was born
19 with a significant physical health condition which required
20 dozens of surgeries. Particularly at the time, a cleft palate
21 was a much more serious and debilitating thing, and I don't
22 doubt that he was subject in childhood to untold physical abuse
23 by his peers. Still, his parents provided a supportive home,
24 and it doesn't account for the development of the defendant's
25 interest in pedophilia.

1 As a very early teen, he was introduced to sex with others
2 his age, but he soon became a predator. The defendant became
3 involved in a local community group, which gave him access to
4 young children whom he sexually abused. Still a teen, the
5 defendant also admitted to abusing a younger relative. Upon
6 graduating from high school, the defendant enlisted in the
7 United States Navy. Due to several surgeries that he had
8 endured as a child, the structure of his hip was compromised,
9 and he eventually suffered an injury severe enough to warrant a
10 medical discharge.

11 Returning home, the defendant eventually relocated to
12 Minnesota and approximately five years later to the Marshfield,
13 Wisconsin, area where he purported to help a family member raise
14 her children. Predictably by that point, the defendant again
15 instead sexually abused his minor relatives who ranged in ages
16 between approximately 8 and 18. This abuse included digitally
17 fondling and performing oral sex on children, one of whom also
18 performed oral sex on him. Among other truly frightening
19 statements by the defendant was his reporting to investigators
20 that he did not worry about the children telling their parents
21 because, in his words, they appeared to enjoy the activity.

22 The defendant was finally caught when he began to post
23 images depicting his sexual abuse of infant relatives in an
24 online chat room, which he administered. The chat room itself
25 was established for the purpose of distributing and discussing

1 child pornography. The images of the minor charged in Count 1
2 are tragically consistent with other commonly seen images of
3 child pornography and child victimization in that and other chat
4 rooms. The images of the minor in Count 2 are even more
5 disturbing, including images of the defendant's penis in the
6 minor's mouth as well as semen on the victim's face and mouth.

7 Adding further injury to these grievous wounds of the
8 victims and their loved ones is that virtually all of the minor
9 victims had been entrusted to the defendant by relatives, which
10 he violated in the most horrific ways imaginable. Obviously the
11 defendant's repeated, insidious sexual abuse of children closest
12 to him over the course of his life requires a substantial
13 sentence. Moreover, at almost 49 years of age and little
14 understanding of what drove him to such horrific acts, the
15 prospects of rehabilitation are small, although not beyond the
16 possibility if the defendant truly is willing to confront his
17 condition.

18 While the advisory guideline imprisonment range is
19 calculated life imprisonment, imprisonment is effectively capped
20 at a total of 60 years by statute, 30 years per count. There
21 are really no discernible mitigating factors in this case that
22 would warrant a substantial departure from this range. Not only
23 are the defendant's crimes difficult to fathom, especially when
24 considering what a range of time they were committed in, his
25 total offense level of 50 well exceeds even 43 at the top of the

1 guideline range. Even if this court could apply mitigating
2 factors for early upbringing and psychological abuse or
3 vulnerability, it would take a significant reduction to even get
4 below the life term recommended by the advisory guidelines.

5 Regardless, given the defendant's well-documented danger to
6 his community for a great portion of his life, the defendant
7 represents a real danger to the larger community. I'm not sure
8 there is a way to accommodate the severity of the conduct and
9 still give this particular defendant hope for release. I think
10 his hope has to be in redemption by confronting what he did, and
11 I will hope that he's able to do that and, even more, help us
12 better understand it as a society.

13 I am persuaded that a custodial sentence of 50 years is
14 reasonable and no greater than necessary to hold the defendant
15 accountable, protect the community, provide the defendant the
16 opportunity for rehabilitative programs, and, importantly,
17 achieve parity with the sentences of similarly situated
18 offenders.

19 As to Count 1 of the indictment, it is adjudged that the
20 defendant is committed to the custody of the Bureau of Prisons
21 for a term of 300 months.

22 As to Count 2 of the indictment, it is adjudged that he is
23 committed to the custody of the Bureau of Prisons for a term of
24 300 months. Moreover, these terms of imprisonment are to run
25 consecutively for a total imprisonment term of 600 months.

1 I recommend that the defendant receive sex offense
2 counseling and that he be afforded prerelease placement in a
3 residential re-entry center with work release privileges, fully
4 cognizant of the fact that it's unlikely he will live to that
5 point but at least the remote possibility remains.

6 The defendant also has pending charges in Clark County,
7 Wisconsin, Circuit Case No. 2018-CF-20. According to the U.S.
8 Supreme Court's ruling in *Setser v. United States*, I have the
9 authority to order the federal sentence to run consecutive or
10 concurrent with any sentence that may be imposed. Because the
11 victims in that matter are the same as those in the current
12 case, that sentence -- or the sentence here shall run
13 concurrently with any sentence that may be imposed in that
14 matter, although given the severity of the sentence, it's
15 probably unlikely that that will be pursued.

16 Under the Sentencing Reform Act of 1984 and given the
17 possibility of supervised release, I will adopt conditions for
18 release, although under the circumstances they would be -- many
19 of them may become unnecessary. The most important of them
20 would certainly be crucial should he be released in order to
21 adequately deter further criminal conduct and protect the public
22 from further crimes perpetrated by the defendant if, in fact, he
23 is unable to gain from therapy.

24 The postings by the defendant online in chat rooms
25 establish the need for close monitoring. His abuse of small

1 children, including family members, rather than reducing his
2 risks, in the Court's view only establishes his willingness to
3 continue to abuse, as does his communications, which admit to
4 both a fascination with and abuse of underage boys online and
5 requesting sexual conduct on webcams.

6 Based on the defendant's repeated offenses against minors,
7 the term of imprisonment will be followed by a 25-year term of
8 supervised release. In light of the nature of the offense and
9 the defendant's personal history, I do adopt conditions 1
10 through 4, 7 through 9, and 11 through 21 as proposed and
11 justified in the presentence report as well as the
12 justifications that I've now put on the record. I note that
13 neither party objected to the proposals. Although there is some
14 question as to whether I should state each of them verbatim on
15 the record and justify them individually, it seems that that is
16 something the defense can waive, and so I'll ask whether you
17 wish to waive my doing so.

18 MR. BUGNI: We would waive it, Your Honor.

19 THE COURT: If, when the defendant is released from
20 confinement to begin his term of supervised release, either he
21 or the supervising probation officer believes that any of the
22 conditions imposed today are no longer appropriate, you may
23 certainly petition the Court for review.

24 The instant offense is not drug related, and the defendant
25 has no history of drug use. Therefore, the requirement for drug

1 testing under Section 3583(d) of Title 18 is waived.

2 It is adjudged that the defendant is to pay a \$200 criminal
3 assessment penalty by statute. That is due immediately
4 following sentencing to the Clerk of Court for the Western
5 District of Wisconsin.

6 He is to pay mandatory restitution again to the U.S. Clerk
7 of Court for distribution to the parties. I understand the
8 parties are unable to agree at this time to restitution, so
9 under statute I will set a restitution hearing, which should
10 be -- well, we probably should set it now, if you could just
11 give me 90 days out.

12 The defendant does not have the means to pay any further
13 fine without impairing his ability to support himself and his
14 family, although realistically a fine would be pointless,
15 particularly if restitution is entered.

16 If the defendant is indigent, which I understand to be the
17 case, the \$5,000 assessment under the Justice for Victims of
18 Trafficking Act of 2015 is waived. I don't know that that has
19 been established, but I guess by virtue of the public defender's
20 role here, I'm willing to find that, unless there's some
21 objection by the government, and so that is waived.

22 A final order of forfeiture will be granted for property
23 seized related to Counts 1 through 3 under Section 2253 of Title
24 18.

25 Finally, the U.S. probation officer is to notify -- U.S.

1 Probation Office is to notify law enforcement agencies and the
2 state attorney general of the defendant's release back into the
3 community.

4 As to Count 3, I believe there's still a motion for the
5 government.

6 MS. ALTMAN: Yes, Your Honor. I'd move to dismiss
7 Count 3.

8 THE COURT: And that is granted.

9 Mr. Bartz, you should probably appeal my sentence, although
10 I did not enter it lightly. There may be grounds, and I suppose
11 there could even be a change in the law that would provide some
12 relief. You were very ably represented by counsel, and you
13 should talk to him about possible grounds in the short time you
14 have to appeal, which is 14 days, and he would assist you in
15 filing a notice of appeal, although I do hasten to add that I
16 hope that for the victims they can take some comfort, although
17 it's cold comfort, that the defendant is -- has been sentenced
18 to time which is commensurate with the severity of his crimes
19 and is not likely to be released. If he is, he'll be a very old
20 man at the time, which maybe is appropriate.

21 For the defendant, I just hope you understand, Mr. Bartz,
22 that you went very far down almost an inconceivable course of
23 conduct, and your sentence reflects that, but I do believe in
24 redemption. I do believe that there's a possibility for you to
25 confront that and come to grips with it. Again, I think it's

1 going to take some painful honesty on your part as to what
2 really happened. You didn't find yourself in these positions.
3 You put yourself in these positions, and you need to understand
4 first why, and then you need to help others understand why, and
5 I hope that's what you will devote your life to doing.

6 Is there anything more for the government at this time?

7 MS. ALTMAN: No, Your Honor. Thank you.

8 THE COURT: Anything more for the defense?

9 MR. BUGNI: One small matter, Your Honor. I spoke to
10 Mr. Bartz. We would waive his appearance at the restitution
11 hearing, if there is one.

12 THE COURT: All right. And, Mr. Bartz, that's your
13 preference as well?

14 THE DEFENDANT: Yes.

15 THE COURT: All right. That's noted for the record.

16 MR. BUGNI: Thank you, Your Honor.

17 THE COURT: We are adjourned other than I guess I
18 should say to the victims, I hope you'll take seriously my
19 words, and I hope you find comfort. It's going to take a very
20 long time, but it happens, and it usually happens when you are
21 willing to share the pain with those who care about you and
22 others who have been through it, and so I hope you search out a
23 group that will let you do that. And I know your children can
24 overcome this with the right support, and I'm certain you'll be
25 an important part of that.

1 Thank you, all.

2 THE CLERK: This Honorable Court stands adjourned.

3 (Proceedings concluded at 3:06 p.m.)

4 ***

5 I, JENNIFER L. DOBBRATZ, Certified Realtime and Merit
6 Reporter in and for the State of Wisconsin, certify that the
7 foregoing is a true and accurate record of the proceedings held
8 on the 4th day of October, 2018, before the Honorable
9 William M. Conley, U.S. District Judge for the Western District
10 of Wisconsin, in my presence and reduced to writing in
11 accordance with my stenographic notes made at said time and
12 place.

13 Dated this 16th day of October, 2018.

14
15
16
17
18
19 /s/ Jennifer L. Dobbratz

20 Jennifer L. Dobbratz, RMR, CRR, CRC
21 Federal Court Reporter
22
23

24 The foregoing certification of this transcript does not apply to
25 any reproduction of the same by any means unless under the
direct control and/or direction of the certifying reporter.